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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,838	09/10/2003	John F. Gabower	020843-000410US	5171
20350	7590	05/31/2006	EXAMINER	
TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			NGO, HUNG V	
			ART UNIT	PAPER NUMBER
			2831	

DATE MAILED: 05/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/659,838

Applicant(s)

GABOWER, JOHN F.

Examiner

Hung V. Ngo

Art Unit

2831

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23, 25, 26, 28, 32, 34, 46, 49 and 50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23, 25, 26, 28, 32, 34, 46, 49 and 50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 23, 25, 26, 28 46 are rejected under 35 U.S.C. 102(b) as being anticipated by Kent (US 3,711,360).

Re claim 23, Kent discloses a shaped polymer substrate comprised of a metallized polymer substrate (1), wherein the shaped polymer substrate is substantially conductive; and

a conductive material (6) on at least one surface of the shaped polymer substrate;

wherein the shaped polymer substrate comprises polyvinyl chloride, polycarbonate, polybutylene terephthalate, or polyethylene terephthalate glycol (col. 2, lines 10-15).

Re claim 25, wherein the conductive material comprises aluminum (col. 2, line 25).

Re claim 26 wherein the conductive material comprises a substantially uniform thickness over at least one surface of the shaped polymer substrate (Fig 1).

Re claim 28 Kent discloses a shaped polymer substrate comprised of a metallized polymer substrate (1), wherein the shaped polymer substrate is substantially conductive; and

a conductive material (6) on at least one surface of the shaped polymer substrate; wherein the shaped polymer substrate comprises:

a first surface (top surface);

a plurality of sidewalls that comprise a first end and a second end, wherein a first end of each of the sidewalls (3) are coupled to the first surface, wherein the sidewalls extend at an angle from the first surface, wherein the first surface and sidewalls define an enclosure portion (Fig 1); and

a peripheral flange (4) coupled to the second end of the sidewalls that extends around the enclosure portion.

Re claim 46, the limitations of "grinding, re-extruding" have been considered, but does not result in a structural difference. The presence of process limitations in product claims, which product does not otherwise patentably distinguish over prior art, cannot impart patentability to that product. In re Stephens 145 USPQ 656 (CCPA 1965).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 49, 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kent

The teaching of Kent as discussed above does not disclose the conductive material made of copper, or nickel (re claims 49, 50).

it would have been obvious, to one having ordinary skill in the art at the time the invention was made to use copper, or nickel for the conductive material of Kent for intended purpose, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

Claims 32, 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kent

The teaching of Kent as discussed above does not disclose the wall shape made of a recycled material and the conductive coating having 1-50 microns in thickness.

it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention of Kent by employing the specific thickness of 1-50 microns of the conductive coating of Kent for intended use, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955).

The limitations of "thermoformed", "recycled" have been considered, but does not result in a structural difference. The presence of process limitations in product claims,

which product does not otherwise patentably distinguish over prior art, cannot impart patentability to that product. In re Stephens 145 USPQ 656 (CCPA 1965).

Allowable Subject Matter

The indicated allowability of claims 23, 25, 26, 28, 46, 49, 50 is withdrawn in view of the newly discovered reference(s) to Kent.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hung V. Ngo whose telephone number is (571) 272-1979. The examiner can normally be reached on Monday to Thursday 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean A. Reichard can be reached on (571) 272-2800 EXT 31. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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HUNG V. NGO
PRIMARY EXAMINER